



Tonga

REMUNERATION AUTHORITY ACT 2010

Act No. 17 of 2010



REMUNERATION AUTHORITY ACT 2010

Arrangement of Sections

Section

PART I - PRELIMINARY		5
1	Short Title	5
2	Interpretation.....	5
3	Act binds the Crown	6
PART II - REMUNERATION AUTHORITY		6
4	Establishment.....	6
5	Membership of Authority	6
6	Chairman and Deputy Chairman	6
7	Term of office	6
8	Extraordinary vacancies.....	7
9	Members and officers to maintain confidentiality	7
10	Meetings.....	7
11	Secretariat	8
12	Members not personally liable.....	8
PART III - FUNCTIONS OF THE AUTHORITY		8
13	Functions of Authority	8
PART IV - PROCEDURES OF THE AUTHORITY		8
14	Criteria for Authority	8
15	Submissions to Authority.....	9
16	Powers of Authority.....	9
17	Annual report	9

PART V – MISCELLANEOUS **9**

18	Money to be appropriated by the Legislative Assembly	9
19	Remuneration	10

SCHEDULE **11**



REMUNERATION AUTHORITY ACT 2010

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AN ACT TO ESTABLISH A REMUNERATION AUTHORITY

I assent,
GEORGE TUPOU V,
23rd July 2010.

BE IT ENACTED by the King and the Legislative Assembly of Tonga in the Legislature of the Kingdom as follows:

PART I - PRELIMINARY

1 Short Title

This Act may be cited as the Remuneration Authority Act 2010.

2 Interpretation

In this Act, unless the context otherwise requires:

“**Authority**” means the Remuneration Authority established by section 4;

“**Minister**” means the Minister of Finance;

“**Ministry**” means the Ministry of Finance; and

“**Remuneration**” includes any benefit, facility or advantage, whether in money or otherwise, received by any person as part of his terms and conditions of appointment.

3 Act binds the Crown

This Act shall bind the Crown.

PART II - REMUNERATION AUTHORITY**4 Establishment**

The Remuneration Authority is hereby established.

5 Membership of Authority

- (1) The Authority shall consist of five members, to be appointed by Cabinet on the recommendation of the Minister.
- (2) The Minister shall not recommend a person for appointment as a member of the Authority, unless the Minister is satisfied that the person is a person of recognised experience in one or more of economic, financial, legal or commercial matters.
- (3) In making recommendations for appointment, the Minister shall have regard to the need for the members of the Authority to have between them a blend of knowledge consisting, but not limited to, economic, financial, legal and commercial matters.
- (4) The members of the Authority shall not be subject to the Public Service Act.

6 Chairman and Deputy Chairman

- (1) One member of the Authority shall be appointed as the Chairman by Cabinet on the recommendation of the Minister.
- (2) The members of the Authority may appoint one of their number to be the Deputy Chairman.
- (3) In the absence of the Chairman from any meeting, the Deputy Chairman shall preside at that meeting.
- (4) No decision of the Authority, and no proceeding before the Authority, shall be held bad for want of form, or be void or in any way vitiated by reason of any informality or error of form.

7 Term of office

- (1) Except as otherwise provided in this Act, every member of the Authority shall be appointed for a term not exceeding 3 years, and may be re-appointed for only one further term.

- (2) Unless he sooner vacates his office under section 8 of this Act, every member of the Authority shall continue in office until his successor comes into office, notwithstanding that the term for which he was appointed may have expired.

8 Extraordinary vacancies

- (1) Any member of the Authority may at any time be removed from office by the Minister for inability to perform the functions of the office, bankruptcy, neglect of duty, misconduct, or convicted of a criminal offence.
- (2) Any member of the Authority may at any time resign his office by giving written notice to that effect to the Minister.
- (3) If any member of the Authority dies, or resigns, or is removed from office, the vacancy thereby created shall be deemed to be an extraordinary vacancy.
- (4) An extraordinary vacancy shall be filled by the appointment of a member by Cabinet on the recommendation of the Minister.
- (5) Every person appointed to fill an extraordinary vacancy shall be appointed for the residue of the term for which the vacating member was appointed.

9 Members and officers to maintain confidentiality

- (1) Every member of the Authority and every person engaged or employed in connection with the work of the Authority shall maintain and aid in maintaining the confidentiality of all matters which come to his knowledge when carrying out his functions or duties under this Act, and shall not communicate any such matters to any person except in the discharge of his functions and duties under this Act.
- (2) Any person who wilfully acts in contravention of subsection (1), commits an offence and shall be liable upon conviction to imprisonment for a term not exceeding 12 months or to a fine not exceeding \$5,000 or both.

10 Meetings

- (1) Meetings of the Authority shall be held at such times and places as the Chairman appoints.
- (2) At any meeting of the Authority, 4 members shall form a quorum.
- (3) A decision of a majority of the members present at any meeting shall be the decision of the Authority, and, in the event of an equality of votes, the member presiding shall have only a deliberative vote and not a casting vote.
- (4) Subject to the provisions of this Act, the Authority may regulate its procedure in such manner as it thinks fit.

11 Secretariat

The Ministry shall provide the secretariat to the Authority.

12 Members not personally liable

No member of the Authority shall be personally liable for any act done or default made by the Authority in good faith in pursuance or intended pursuance of the powers, duties and functions of the Authority under this Act.

PART III - FUNCTIONS OF THE AUTHORITY**13 Functions of Authority**

- (1) The functions of the Authority shall be:
 - (a) to consider and make recommendations as to the remuneration and other monetary benefits of the officers listed in the Schedule; and
 - (b) to carry out such other functions as may be conferred or imposed on it by this Act or any other enactment.
- (2) In carrying out its functions under subsection (1), the Authority may fix scales or ranges of remuneration, and may specify the manner in which such scales or ranges of remuneration are to be applied, and may provide for remuneration to be adjusted on a specified basis against a specified index or such other adjustment mechanism as the Authority specifies.

PART IV - PROCEDURES OF THE AUTHORITY**14 Criteria for Authority**

In making any recommendation under section 13 of this Act, or under any other enactment, the Authority shall take into account:

- (a) the need to achieve and maintain fair relativity with the levels of remuneration received in the private sector;
- (b) the need to be fair both:
 - (i) to the persons or class of persons whose remuneration is being recommended; and
 - (ii) to the taxpayer;
- (c) the need to recruit and retain competent and suitably qualified persons;
- (d) requirements of the position concerned; and

- (e) conditions of service enjoyed by the persons whose remuneration is being recommended and those enjoyed by persons whose remuneration and conditions of employment are, in the opinion of the Authority, comparable with those of the persons whose remuneration is being recommended.

15 Submissions to Authority

- (1) Any person or organisation shall be entitled to make written submissions to the Authority in relation to the exercise by the Authority of its functions under this Act.
- (2) Where the Authority is considering whether to make a recommendation in relation to the remuneration of any persons or group of persons, the following people shall be entitled to make written submissions and, at their option, oral submissions to the Authority, at a time and place and in a manner to be determined by the Authority:
 - (a) representatives of the members of each category of persons whose remuneration is being considered; or
 - (b) any recognised organisation representing the members of each category of persons whose remuneration is being considered.

16 Powers of Authority

- (1) The Authority may require any person to furnish information concerning remuneration or conditions of employment, or both, for any positions, whether or not those positions are subject to the jurisdiction of the Authority under this Act.
- (2) In addition to the powers expressly conferred on the Authority by this Act or any other enactment, the Authority shall have such other powers as may be reasonably necessary to enable it to carry out its functions.

17 Annual report

As soon as practicable after the end of each year ending with the 30th day of June, the Authority shall furnish to the Minister a report of its operations during that year.

PART V – MISCELLANEOUS

18 Money to be appropriated by the Legislative Assembly

All fees, remuneration, expenses and other expenditure payable or incurred under or in the administration of this Act shall be payable out of money to be appropriated by

the Legislative Assembly for that purpose, and remuneration shall be paid to the members of the Authority out of money so appropriated.

19 Remuneration

The remuneration of the members of the Authority shall be determined by the Minister with the consent of Cabinet.

Passed in the Legislative Assembly this 15th day of July 2010.

SCHEDULE

(Section 13(1))

**OFFICERS IN RESPECT OF WHICH THE AUTHORITY SHALL MAKE
RECOMMENDATIONS**

Anti-Corruption Commissioner

Attorney General

Auditor General

Chairman of the Committee of the Whole House of the Legislative Assembly

Chief Executive Officers and Directors of Public Enterprises

Chief Justice

Clerk of the Legislative Assembly

Commissioner for Public Relations

Diplomatic Corp and, staff not subject to the Public Service Act

District and Town Officers

Governors

Commissioners appointed under the Tonga Law Commission Act

Commissioners appointed under the Public Service Act

Judges of the Supreme Court and Land Court

Magistrates

Members of the Court of Appeal

Members of the Legislative Assembly

Members of the Tonga Defence Services

Members of Tribunals

Nobles

Officers and Staff of the Legislative Assembly

Police, Prisons and Fire Services officers

Prime Minister, Deputy Prime Minister and Ministers

Privy Purse

Royal Commissioners appointed under the Royal Commissions Act

Speaker of the Legislative Assembly

Standing and Select Committees of the Legislative Assembly